

## Alcohol and Tobacco Tax and Trade Bureau, Treasury

## § 28.110

### § 28.102 Bottles to have closures affixed.

Every bottle containing distilled spirits to be withdrawn under the provisions of this subpart shall have a closure or other device affixed in accordance with the provisions of part 19 of this chapter.

(Sec. 454, Pub. L. 98-369, 98 Stat. 494 (26 U.S.C. 5301))

[T.D. ATF-206, 50 FR 23956, June 7, 1985]

### § 28.103 Export marks.

(a) *General.* In addition to the marks and brands required to be placed on packages and cases of distilled spirits at the time they are filled under the provisions of part 19 of this chapter, the proprietor shall mark the word "Export" on the Government side of each case or Government head of each container before removal from the bonded premises for any exportation authorized under this subpart.

(b) *Exception.* When containers are being removed to a contiguous manufacturing bonded warehouse, the proprietor need not place the word "Export" on the containers if the appropriate TTB officer finds the omission will not jeopardize the revenue.

(Sec. 309, Tariff Act of 1930, 46 Stat. 690, as amended (19 U.S.C. 1309); sec. 3, Act of June 18, 1934, 48 Stat. 999, as amended (19 U.S.C. 81c); sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended (26 U.S.C. 5214); sec. 3, Pub. L. 91-659, 84 Stat. 1965, as amended (26 U.S.C. 5066))

[T.D. ATF-82, 46 FR 21158, Apr. 9, 1981, as amended by T.D. TTB-8, 69 FR 3832, Jan. 27, 2004]

### § 28.104 Certificates of origin.

The entry of distilled spirits at ports in certain foreign countries is permitted only upon the filing by the importer of an official certificate showing the origin and age of such spirits. An appropriate TTB officer may, on request of the applicant, furnish a certificate showing the origin and age of the spirits described on TTB Forms 5100.11 or 5110.30. Such officer may require supporting documentation to be provided by the applicant. Certificates of origin and age shall be furnished on Form 2177 (5110.58). Form 2177 (5110.58) may also be issued for distilled spirits removed to a foreign-trade zone, in

which case the number and location of the foreign-trade zone shall be shown on the form in lieu of the name of the foreign country.

[T.D. ATF-198, 50 FR 8560, Mar. 1, 1985, as amended by T.D. TTB-8, 69 FR 3832, Jan. 27, 2004]

### § 28.105 Report of inspection and tax liability.

When the spirits are ready for shipment, the proprietor shall execute his report of inspection and tax liability on all copies of TTB Form 5100.11.

(72 Stat. 1362; 26 U.S.C. 5214)

[T.D. ATF-46, 42 FR 44773, Sept. 6, 1977, as amended by T.D. ATF-62, 44 FR 71723, Dec. 11, 1979; T.D. TTB-8, 69 FR 3832, Jan. 27, 2004]

### § 28.106 Consignment, shipment, and delivery.

The consignment, shipment, and delivery of distilled spirits withdrawn without payment of tax under this subpart shall be made under the provisions of subpart M.

(72 Stat. 1362; 26 U.S.C. 5214)

### § 28.107 Disposition of forms.

TTB Form 5100.11 and any accompanying package gauge record shall be distributed by the proprietor in accordance with the instruction on TTB Form 5100.11.

(Approved by the Office of Management and Budget under control number 1512-0250)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended (26 U.S.C. 5214))

[T.D. ATF-198, 50 FR 8560, Mar. 1, 1985, as amended by T.D. TTB-8, 69 FR 3832, Jan. 27, 2004]

## LOSSES

### § 28.110 Losses.

Where there has been a loss of distilled spirits while in transit from the bonded premises of a distilled spirits plant to a port of export, a customs bonded warehouse, a manufacturing bonded warehouse, a vessel or aircraft, or a foreign-trade zone, the provisions of subpart O of this part, with respect to losses of spirits after withdrawal without payment of tax and to claims

## § 28.115

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for remission of the tax thereon, shall be applicable.

(72 Stat. 1323, as amended, 84 Stat. 1965; 26 U.S.C. 5008, 5066)

[T.D. 7112, 36 FR 8581, May 8, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975]

### RETURN OF SPIRITS TO BONDED PREMISES

#### § 28.115 General.

Spirits which have been lawfully withdrawn without payment of tax under the provisions of this subpart for exportation, or for deposit in a foreign-trade zone, a manufacturing bonded warehouse, or a customs bonded warehouse, or for use on vessels and aircraft may, subject to the requirements of § 28.116, be returned:

(a) To the bonded premises of a distilled spirits plant for redistillation; or

(b) To the bonded premises from which withdrawn, pending subsequent removal for lawful purposes. However, such spirits may only be returned before they are exported, deposited in a foreign-trade zone, a manufacturing bonded warehouse, or a customs bonded warehouse, or laden as supplies upon or used on vessels or aircraft, as the case may be.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1365 as amended (26 U.S.C. 5214, 5223); Sec. 3, Pub. L. 91-659, 84 Stat. 1365, as amended (26 U.S.C. 5066))

[T.D. ATF-198, 50 FR 8560, Mar. 1, 1985, as amended by T.D. TTB-8, 69 FR 3832, Jan. 27, 2004]

#### § 28.116 Notice of return of spirits withdrawn without payment of tax.

If a proprietor of a distilled spirits plant desires to return spirits to his plant as provided in § 28.115, he shall file a notice with the appropriate TTB officer. A copy of the notice shall be prepared for submission to the customs official, as required by § 28.117. The notice shall be executed under the penalties of perjury and shall show:

(a) Name, address, and plant number of the distilled spirits plant to which the spirits are to be returned.

(b) Name, address, and plant number of the distilled spirits plant which packaged or bottled the spirits.

(c) Name, address, and plant number of the distilled spirits plant from which the spirits were withdrawn.

(d) Name and address of the principal on the bond under which the spirits were withdrawn.

(e) Serial number of the TTB Form 5100.11 and the date withdrawn.

(f) Present location of spirits to be returned.

(g) Kind of spirits to be returned.

(h) Number, kind, and serial numbers of the containers to be returned. In case of bottled spirits, the number and size of the bottles in each case.

(i) Total quantity in proof gallons of spirits to be returned.

(j) Reason for return of spirits.

(k) Disposition to be made of returned spirits, i.e., redistillation or return to bonded storage.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1362, as amended, 1365, as amended (26 U.S.C. 5214, 5223))

[25 FR 5734, June 23, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-62, 44 FR 71723, Dec. 11, 1979; T.D. TTB-8, 69 FR 3832, Jan. 27, 2004]

#### § 28.117 Responsibility for return of spirits.

The principal on the bond under which the spirits were withdrawn without payment of tax shall be responsible for arranging the return of the spirits to the distilled spirits plant receiving them. The principal or his agent shall submit a copy of the notice required by § 28.116 to the appropriate customs official. If the spirits are returned before the TTB Form 5100.11 has been filed with the customs official, the principal shall submit the form with the notice. The customs officer shall, if the spirits are eligible for return under § 28.115, accept the notice as authority for the return of the spirits to the distilled spirits plant identified in the notice. The customs officer shall retain the notice and shall mark each copy of TTB Form 5100.11 "Canceled", note the date thereon, return both copies to the principal, and, if the spirits are in customs custody, release them for return. The principal shall retain one copy of the canceled TTB Form 5100.11 and file one